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ARMY REGULATION
NO 310-4

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 22 July 1977

MILITARY PUBLICATIONS

PUBLICATION IN THE FEDERAL REGISTER OF RULES AFFECTING THE PUBLIC

Effective 15 August 1977 in accordance with 42 FR 26423

This regulation prescribes procedures and responsibilities for submission of proposed and adopted rules for publication in the FEDERAL REGISTER and the Code of Federal Regulations. Limited supplementation is authorized but not required. If supplements are issued, Army Staff agencies and major Army commands will furnish one copy of each to HQDA (DAAG-AMR-R), WASH DC 20314.

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***This regulation supersedes DA Circular 5-2, 29 May 1975, including all changes.**

D 101.9:

CHAPTER 1
GENERAL

1–1. Purpose. This regulation prescribes procedures and responsibilities for publishing certain Department of the Army policies, practices and procedures in the FEDERAL REGISTER as required by statute, and for inviting public comment thereon, as appropriate. This regulation implements a portion of the Freedom of Information Act, 5 U.S.C. §552(a)(1), and DOD Directive 5400.9, December 23, 1974 (34 CFR 296, 40 FR 4911).

1–2. Explanation of terms. *a. Rule.* The whole or a part of any Department of the Army Statement (regulation, circular, directive, or other media) of general or particular applicability and future effect, which is designed to implement, interpret, or prescribe law or policy or which describes the organization, procedure, or practice of the Army. (See 5 U.S.C. §551(4).)

b. FEDERAL REGISTER. A document published daily, Monday through Friday, (except holidays) by the Office of the Federal Register, National Archives and Records Service, General Service Administration (GSA) to inform the public about the regulations of the executive branch and independent administrative agencies of the U. S. Government. The FEDERAL REGISTER includes Presidential proclamations, Executive orders, Federal agency documents having general applicability and legal effect or affecting the public, and documents required to be published by Act of Congress.

c. Code of Federal Regulations. A document published by GSA which contains a codification of the general and permanent rules published in the FEDERAL REGISTER by the executive departments and executive agencies of the Federal Government. It consists of 120 volumes, divided into 50 titles. Each title represents a broad area that is subject to Federal regulation. Army documents are published in Title 32, National Defense, and in Title 33, Navigation and Navigable Waters. (The FEDERAL REGISTER and the Code of Federal Regulations must be used together to determine the latest version of any given rule.)

1–3. Responsibilities. *a.* The Adjutant General (TAG) is responsible for policies concerning Army announcements, rules, and proposed rules published in the FEDERAL REGISTER, and for ensuring Army compliance with this regulation. TAG will assist the officials listed in table 1–1 in the performance of their responsibilities. TAG will represent the Army in submitting to the Office of the Federal Register any matter published in accordance with this regulation.

b. The officials listed in table 1–1 (hereinafter referred to as proponents) are responsible for determining whether any rule originated in their areas of jurisdiction falls within the purview of chapter 3, and for taking all actions specified in chapter 3. They are also responsible for determining which matters within their areas of jurisdiction must be published in accordance with chapter 2 and for submission actions specified in chapter 2.

c. Legal officers and staff judge advocates supporting the proponents will provide legal advice and assistance in connection with proponent responsibilities contained herein.

Table 1–1. Rulemaking Proponents

Official	*Area of Jurisdiction*
Administrative Assistant to the Secretary of the Army	Office of the Secretary of the Army
Director of the Army Staff	Elements, Office of the Chief of Staff, US Army
Head of each Army Staff Agency	Headquarters of the agency and its field operating and staff support agencies
Commander, MACOM	Headquarters of MACOM and all subordinate installations, activities and units
The Adjutant General	All other Army elements

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1-4. Designation of rulemaking coordinators. The officials listed in table 1-1 will designate Rulemaking Coordinators to perform the duties prescribed by chapter 3 of this regulation for their areas of functional responsibility. At the time of designation, The Adjutant General (DAAG-AMR-R) will be informed of the name and telephone number of the designated individual. The designee will perform the following duties:

a. Editorial review of all rules and notices required to be published in the FEDERAL REGISTER.

b. Transmitting material to TAG and providing TAG with the name, office symbol, and telephone number of the action officer for each rule or general notice for inclusion in the FEDERAL REGISTER.

c. Coordinating with Publication Control Officers to ensure submission of Statements of Compliance required by paragraph 1-5.

d. Notifying HQDA (DAAG-AMR-R), WASH DC 20314, when a regulation published in the FEDERAL REGISTER becomes obsolete or is superseded by another regulation.

1-5. Statement of compliance. In order to ensure compliance with the regulation, no rule will be issued unless there is on file with The Adjutant General (DAAG-AMR-R) a statement to the effect that it has been evaluated in terms of this regulation. If the proponent determines that the provisions of this regulation are inapplicable, such determination will be explained in the statement.

1-6. Submission of publications for printing. When Army-wide publications or directives are transmitted to The Adjutant General (DAAG-PAP) for publication, the DA Form 260 (Request for Printing of Publication) or other transmittal paper will contain a statement that the directive has been processed for publication in the FEDERAL REGISTER or that it falls within the exempted category. DAAG-PAP will not publish any rule unless this statement is on DA Form 260. A copy of DA Form 260 may be submitted to DAAG-AMR-R in lieu of the statement required by paragraph 1-5.

1-7. Incorporation by reference. *a.* With the approval of the Director of the Federal Register, the requirements for publication in the FEDERAL REGISTER may be satisfied by reference in it to other publications, provided they are reasonably available to the class of persons affected and contain the information which must otherwise be published. For example, it can be purchased from the Superintendent of Documents, Government Printing Office or GPA bookstores at a reasonable cost, or is available for review at Army installations, or depository libraries. Therefore, before a document can be incorporated by reference, the proponent must determine that it is available to the public. See 5 U.S.C. §552(a)(1); 1 CFR Part 51; 37 Fed Reg. 23614 (4 Nov 1972).

b. Incorporation by reference is not acceptable as a complete substitute for promulgating in full the material required to be published. It may, however, be utilized to avoid unnecessary repetition of published information already reasonably available to the class of persons affected. Examples include:

(1) Construction standards issued by a professional association of architects, engineers, or builders,

(2) Codes of ethics issued by professional organizations, and,

(3) Forms and formats publicly or privately published and readily available to the persons required to use them.

c. Proposals for incorporation by reference will be submitted to HQDA (DAAG-AMR-R), WASH DC 20314 by letter giving an identification and subject description of the document, statement of availability, indicating document will be reasonably available to the class of persons affected, where and how copies may be purchased or examined, and justification for the requirement to incorporate by reference. The request will be submitted to TAG at least 20 working days before the proposed date for submission of the incorporation by reference notice for the FEDERAL REGISTER.

d. TAG will consult with the Director, Office of the Federal Register (OFR) concerning each specific request and will notify the proponent of the outcome of the consultation.

e. If the Director, OFR, agrees to the proposal for incorporation by reference, a general notice will be submitted to HQDA (DAAG-AMR-R), WASH DC 20314, similar to the example shown in figure 1-1.

(Locate fig. 1-1, a fold-in page, at the end of the regular size pages.)

CHAPTER 2
INFORMATION TO BE PUBLISHED IN THE FEDERAL REGISTER

2–1. General. The Administrative Procedures Act, as amended by the Freedom of Information Act, 5 U.S.C. §552(a), requires that certain policies, practices, procedures, and other information concerning the Department of the Army be published in the FEDERAL REGISTER for the guidance of the public. In general, this information explains where, how, and by what authority the Army performs any of its functions that affect the public. This chapter describes that information and the effect of failing to publish it.

2–2. Information to be published. In deciding which information to publish, consideration will be given to the fundamental objective of informing all interested persons of how to deal effectively with the Department of the Army. Information to be currently published will include—

a. Descriptions of the Army's central and field organization and the established places at which, the officers from whom, and the methods whereby the public may obtain information, make submittals or requests, or obtain decisions;

b. The procedures by which the Army conducts its business with the public, both formally and informally;

c. Rules of procedures, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

d. Substantive rules of applicability to the public adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Army; and

e. Each amendment, revision, or repeal of the foregoing.

2–3. Exceptions. It is not necessary to publish in the FEDERAL REGISTER any information which comes within one or more of the exemptions to the Freedom of Information Act, 5 U.S.C. §552(b), as implemented by paragraph 2-12, AR 340-17.

2–4. Procedures. All matters to be published in accordance with this chapter will be submitted to The Adjutant General (DAAG-AMR-R), WASH DC 20314, in the proper format. See paragraph 3-3.

2–5. Effect of not publishing. Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, comply with, or be adversely affected by, a matter required to be published in the FEDERAL REGISTER and not so published.

CHAPTER 3
INVITING PUBLIC COMMENT ON CERTAIN PROPOSED RULES AND SUBMISSION OF PETITIONS

3-1. General. Public comment must be sought on certain of those proposed rules which are required to be published in accordance with chapter 2 of this regulation. This chapter sets forth the criteria and procedures for inviting public comment before publication.

3-2. Applicability. *a.* These provisions apply only to those Department of the Army rules or portions thereof which—

(1) Are promulgated after the effective date of this regulation; and

(2) Must be published in the FEDERAL REGISTER in accordance with chapter 2 of this regulation; and

(3) Have a substantial and direct impact on the public or any significant portion of the public; and

(4) Do not merely implement a rule already adopted by a higher element within the Department of the Army or by the Department of Defense.

b. Subject to the policy in paragraph *a* above, and unless otherwise required by law, the requirement to invite advance public comment on proposed rules *does not apply* to those rules or portions thereof which—

(1) Do not come within the purview of paragraph *a* above; or

(2) Involve any matter pertaining to a military or foreign affairs function of the United States which has been determined under the criteria of an Executive Order or statute to require a security classification in the interests of national defense or foreign policy; or

(3) Involve any matter relating to Department of the Army management, personnel, or public contracts; e.g., Armed Services Procurement Regulation, including nonappropriated fund contracts; or

(4) Constitute interpretative rules, general statements of policy, or rules of organization, procedure, or practice; or

(5) The proponent of the rule determines for good cause that inviting public comment would be impracticable, unnecessary, or contrary to the public interest. This provision will not be utilized as a convenience to avoid the delays inherent in obtaining and evaluating prior public comment. (See also para. 3-7.)

3-3. Procedure when proposing rules. *a.* A proposed rule to which this chapter applies will be published along with a preamble, in the Proposed Rules Section of the FEDERAL REGISTER. Public comment will be invited within a designated time, at least 30 days prior to the intended adoption of the proposed rule.

b. The proposed rule and preamble will be prepared for publication by the proponent of the rule. Preparation will be in accordance with guidance contained in appendixes A and B.

c. Rulemaking proponents will submit the original and three copies of the proposed rules and preamble, in the proper format, to HQDA (DAAG-AMR-R), WASH DC 20314. The Adjutant General will prepare the required certification and submit the documents to the Office of the Federal Register for publication as a notice of proposed rulemaking.

3-4. Consideration of public comment. *a.* Following publication of a notice of proposed rulemaking, all interested persons will be given an opportunity to participate in the rulemaking through the submission of written data, views, and arguments to the proponent of the proposed rulemaking concerned.

b. If the proponent of the rule determines that it is in the public interest, a hearing or other opportunity for oral presentation of view may be allowed as a means of facilitating public comment. Informal consultation by telephone or otherwise may also be utilized to facilitate presentation of oral comments by interested persons. All hearings or other oral presentations will be conducted by the proponent of the rule in a manner prescribed by him/her. A hearing file will be established for each hearing. The hearing file will include any public notices issued, the request for the hearing, any data or material submitted in justification thereof, materials submitted in opposition to the proposed action, the hearing transcript, and any other material as may

be relevant or pertinent to the subject matter of the hearing.

c. There is no requirement to respond, either orally or in writing, individually to any person who submits comments with respect to a proposed rule. The proponent of the rule, however, may do so as a matter within his/her discretion.

3–5. Procedure when publishing adopted rules. *a.* After careful consideration of all relevant material submitted, the proponent of the rule will make such revisions in the proposed rule as appear necessary in light of the comments received.

b. The proponent will also prepare a preamble for publication with the adopted rule. The proponent will discuss in the preamble the comments received in response to the proposed rule and the decision to accept or reject the comments in revisions to the proposed rule. Preparation will be in accordance with guidance contained in appendixes A, C and figure C–1.

c. The original and three copies of the preamble and revised rule will be forwarded to HQDA (DAAG–AMR–R), WASH DC 20314 in the proper format. The Adjutant General will then prepare the required certification and submit the documents to the Office of the Federal Register for publication in the form of an adopted rule.

3–6. Submission of petitions. Each proponent of a rule will grant to any interested person the right to submit a written petition calling for the issuance, amendment, or repeal of any rule to which this chapter applies or would apply if issued, as specified in paragraph 3–2. Any such petition will be given full and prompt consideration by the proponent. If compatible with the orderly conduct of public business, the appropriate official may, at his/her discretion, allow the petitioner to appear in person for the purpose of supporting this petition. After consideration of all relevant matters by the proponent, the petitioner will be advised in writing by the proponent of the disposition of any petition, together with the reasons supporting that disposition. This provision does not apply to comments submitted on proposed rules in paragraph 3–4c.

3–7. Cases in which public comment is impractical. *a.* Whenever a rulemaking proponent determines for good cause that inviting public comment regarding a proposed rule would be impractical, unnecessary, or contrary to the public interest, he/she will prepare a brief statement of the reasons supporting this determination for incorporation in the preamble to the adopted rule. The preamble and adopted rule will then be published in the form outlined in paragraph 3–5*b* and *c*. (For an example see fig. C–2.)

b. Alternatively, the proponent may request The Adjutant General (DAAG–AMR–R) (by letter or disposition form, as appropriate) to adopt and publish in the FEDERAL REGISTER a separate rule exempting from the prepublication notice provisions of this regulation those specific categories of rules for which the rulemaking proponent has determined that public comment would be unnecessary, impractical, or contrary to public interest. The request to The Adjutant General will contain an explanation of the reasons why the proponent believes that a particular category of rule or rules should not be published in proposed form for public comment. If The Adjutant General agrees that public comment should not be invited with respect to the cited category, he will adopt and publish a separate rule in the FEDERAL REGISTER exempting such rule or rules from the requirements of this regulation. This separate rule will include an explanation of the basis for exempting each particular category from the provisions of this regulation.

APPENDIX A
PREPARATION OF RULEMAKING DOCUMENTS

A-1. General. *a.* A proposed rulemaking document is an announcement to the public that the Army proposes to amend the Code of Federal Regulations (CFR) and interested individuals are given an opportunity to comment on the development of the final amendment. Generally, the proposed rulemaking document will become the adopted rule; therefore, careful consideration should be given to correct format and the Army and user viewpoint.

b. Each title of the Code of Federal Regulations is separated by chapters and each chapter is numbered in Roman numerals (I, II, III, etc.). Chapters can be divided by subchapter, if required, and are lettered in capitals (A, B, C, etc.) to group related parts.

c. Each chapter or subchapter is divided into parts, numbered in Arabic numerals and assigned to chapters as follows:

Chapter I, Parts 1 to 199, Chapter II, Parts 200 to 299, Chapter III, Parts 300 to 399, etc. See figure A-1.

d. Each part consists of a consolidated body of rules applying to a single function of the Department of the Army. When required, subparts are identified by capital letters to group related elements of information.

e. Section numbers (within parts) include the number of the part set off by a decimal point preceded by the symbol "§." For example, Part 400, section six, is expressed "§400.6." The section is the basic unit of the Code of Federal Regulations (CFR) and should consist of a short, clear presentation of one regulatory proposition.

f. Sections are divided into paragraphs. Paragraphs are subdivided and identified as follows:

Term	*Symbol*
Paragraph	(a), (b), (c), etc.
For further subdividing of a paragraph	(1), (2), (3), etc. (i), (ii), (iii), etc. (A), (B), (C), etc.* (1), (2), (3), etc. (i), (ii), (iii), etc.

*This suggested numbering system, which replaces the old italicized lower case letters ("a") with a capital letter ("A"), should be used only where an entire part is being revised or where a new part is being adopted.

When referring to (C) in (iii) of (3) of (a) of §400.6, the drafter writes "32 CFR 400.6(a)(3)(iii) (C) or paragraph (a)(3)(iii) (C) of §400.6." Such detailed subdividing of a section is to be avoided where possible in favor of shorter, better expressed sections. Undesignated paragraphs should also be avoided as they are difficult to cite in other parts of the CFR.

CFR Title → Title 32—National Defense
CFR Subtitle → Subtitle A—Department of Defense
Chapter → CHAPTER V—DEPARTMENT OF THE ARMY

(Parts 400 to 589)

Subchapter → SUBCHAPTER A—AID OF CIVIL AUTHORITIES AND PUBLIC RELATIONS

Part

Part → 400-500 [Reserved]
501 Employment of troops in aid of civil authorities.
502 Relief assistance.
503 Apprehension and restraint.
504 Public information activities.
505 [Reserved]
507 Manufacture of decorations.
508 Competition with civilian bands.
510 Chaplains.
511 Assistance to relatives and others in connection with deceased personnel.
512 Prisoners.
513 Assistance of creditor by Department of the Army.
516 Litigation.
517 Army participation in civilian activities.
518 Release of information and records from Army files.
519 Investigations.

SUBCHAPTER B—CLAIMS AND ACCOUNTS

532 Payments on behalf of mentally incompetent personnel.
533 Claims of survivors of deceased personnel.
534 Military court fees.
536 Claims against the United States.
537 Claims on behalf of the United States.
538 Nonappropriated funds and related activities.

SUBCHAPTER C—MILITARY EDUCATION

542 Schools and colleges.
543 Promotion of rifle practice.

Figure A-1. Examples of basic subdivisions of CFR.

A-2. Format. *a.* Use 8- by 10 1/2-inch bond or photocopy paper. Number all pages consecutively. Double space all primary text and single space:

(1) Table of sections (part tables of contents).

(2) Section headings are always typed in full on a single separate line.

(3) Authority statements in rules documents.

(4) Lists of items.

(5) Quoted material when set apart from regular text.

(6) Footnotes and notes to tables.

b. A separate action must be submitted for each type of document to be published in the FEDERAL REGISTER, "Proposed Rules," "Rules and Regulations," and "Notices."

A-3. Signature. *a.* Rule documents will be signed by the head of a DA staff agency, or the commander of an Army command, their authorized representatives or other designated officials at subordinate level as authorized by AR 340-15 for correspondence.

b. The signature block will be placed on a page which includes some material that can be identified with the text. It must be signed by the official issuing the document along with the signer's typed name, grade, and position title for military officials or position title for civilian officials. The signature block can be omitted if the proponent prefers the document to be authenticated, BY AUTHORITY OF THE SECRETARY OF THE ARMY, by TAG.

A-4. Capitals. The following guidance will be followed in use of capitals:

a. The title FEDERAL REGISTER is typed in capitals.

b. CHAPTER HEADINGS and PART HEADINGS are typed in all capitals for rules documents.

c. AGENCY NAME HEADINGS and SUBJECT MATTER HEADINGS are all capitals in proposed and notice documents.

A-5. Underlining. *a.* Underline if you want the material set in italics. Do not underline for emphasis or for names of books or court cases or when foreign phrases are used. Use quotation marks for names of books or court cases.

b. Provisos or ordering paragraphs should be underlined as follows:

Provided, that . . . . . .

It is ordered, that. . . . . .

c. The following may be underlined:

(1) Scientific terms.

(2) Paragraph headings may be underlined; however, they must be underlined consistently within the section.

(3) Effective dates may be underlined and read as follows:

Effective date. This regulation is effective August 22, 1977.

A-6. Illustrations. Maps, diagrams, graphs, or other pictorial material will be included in documents only when necessary for compliance purposes, or where they aid in understanding. If an illustration is essential, the original artwork or a clear reproduction must accompany the original document and copies. If an amendment is made to the illustration at a later date, a new drawing must be submitted with the amendment.

A-7. Corrections. Minor changes can be made in typed documents by making the correction on all copies in ink and placing your initials in the margin opposite the change. Correction tape will not be used. Tape becomes detached and causes errors in the printed version and in the permanent record retained by the National Archives and Records Service.

A-8. Number of copies. *a.* The original document is submitted to the Office of the Federal Register and becomes a part of the National Archives of the United States. It should be typed and have the appearance of a formal document prepared for public inspection.

b. Printed or electrostatic copies of computer printouts may be used as originals, provided the copies are of high quality and each copy is signed in ink.

c. Three legible copies must be submitted with the original. The issuing official can sign all copies or the copies can be certified as true copies of the original document by TAG. Photocopies are acceptable and are preferred to illegible originals or poor carbon copies.

A-9. Preamble requirements. *a.* The proponent submitting a proposed or adopted rule document for publication will prepare a preamble which will inform the public, who is not an expert in the subject area, of the basis and purpose for the rule or proposal.

b. The preamble will be in the block style format and contain the information shown in figure A-2.

HEADINGS

AGENCY: . . . . . .
(Name of issuing agency)

ACTION: . . . . . .
(Notice of Intent), (Advance Notice of Proposed Rulemaking),
(Proposed Rule), (Final Rule), (Other).

SUMMARY: . . . . . .
(Brief statements, in simple language, of:
1. The action being taken;
2. The circumstances which created the need for the action; and
3. The intended effect of the action.)

DATES: . . . . . .
(Comments must be received on or before: . . . . . .)
(Proposed effective date: . . . . . .)
(Effective date: . . . . . .)
(Hearing: . . . . . .)
(Other: . . . . . .)

ADDRESSES: . . . . . .
(Any relevant addresses.)

FOR FURTHER INFORMATION CONTACT: . . . . . .
(the name and telephone number of a person to contact for additional information about the document.)

SUPPLEMENTARY INFORMATION:

When the issuing agency determines that the information provided above is inadequate as a matter of law, or is insufficient to adequately inform a reader who is not an expert in the subject area, or that a report of additional information is in the public interest, the agency shall include in the preamble the following information, as applicable:

1. A discussion of the background and major issues involved;
2. In the case of a final rule, any significant differences between it and the proposed rule;
3. A response to substantive public comments received; and
4. Any other information the agency considers appropriate.

DATED:

SIGNATURE

Figure A-2.

c. The body text of the rule will be included before the date and signature block for short amendments. However, for long and involved rules include the body text after the signature block.

d. When an "Inflation Impact Statement" is required, it will be placed immediately above the signature of the authorizing official as follows:

(1) *Minor.* "The Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107."

(2) *Major.* "The Army has determined that this document contains a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107 and certifies that an Inflation Impact Statement has been prepared."

e. (By providing answers to the following questions, the drafter can prepare a preamble that explains the actions taken:

(1) What is being promulgated? Why? How does it affect the CFR?

(2) Did the comments received on the proposal substantiate the need for it?

(3) Did the comments received on the proposal bring out any additional facts or information?

(4) Was the proposal understood by the persons to whom it would apply?

(5) Were any alternatives suggested as a result of the proposal? Do any of them require further consideration? Are the reasons for their rejection or adoption explained?

(6) Are there any agency-developed changes in the final rule that were not in the proposal? Are they fully explained?

(7) Are all of the significant comments received on the proposal discussed and answered?

A–10. Information services. The Adjutant General Center (Commercial 202-693-0631/0973 or Autovon 223-0631/0973) will provide assistance and advice on drafting of rules, general notices, and distribution of the FEDERAL REGISTER and Code of Federal Regulations.

A–11. Document drafting examples. The examples used in this regulation should not be used for the submission of all rulemaking documents. Additional examples and instructions are contained in the FEDERAL REGISTER Handbook on Document Drafting, which is available from HQDA (DAAG-AMR-R) WASH DC 20314.

APPENDIX B
PROPOSED RULEMAKING DOCUMENT PROCEDURES

B–1. Drafting proposed rules. A proposed rulemaking document includes the following:

a. Appropriate headings as shown in figure B–1.

b. A preamble giving the reader an explanation of the proposal, a statement of the time, place, and nature of public proceedings (hearings, opportunity to submit written comments, or both), and other information required by paragraph A–9.

c. Words of issuance as discussed in paragraph C–2, appendix C.

d. Date of issuance and signature.

e. Full text of the proposal when desired by the proponent. See figure B–1 for an example.

(Locate fig. B–1, a fold-in page, at the end of the regular size pages.)

B–2. Documents which affect proposals. *a.* A document which amends, supplements or in any way affects previously published proposals (other than adoption documents) must also be published in the "Proposed Rules" section of the FEDERAL REGISTER. The document should be prepared with the same headings as the prior proposal document. In the text there must be specific reference to the previous proposal document, citing the FEDERAL REGISTER volume and page.

b. Documents which affect proposal include those which—

(1) Extend time for comments.

(2) Change the date or place of hearings.

(3) Suspend, terminate, or withdraw the rulemaking proceeding.

(4) Correct the text.

(5) Supplement a proposal.

B–3. Advance notice of proposed rules. *a.* An advance notice of proposed rulemaking is a preliminary inquiry prior to the issuance of a specific notice of proposed rulemaking. It is used to give the public an opportunity to participate in the decisions as to whether a rule change is necessary.

b. The advance notice of a proposal document is prepared in the same manner as a proposed rule. Explain the need for rulemaking, issues involved, and use specific questions for expert commenters to answer.

APPENDIX C
ADOPTED RULE DOCUMENT PROCEDURES

C–1. Drafting adopted rules. An adopted rule publication must include the following:

a. Appropriate headings. The heading ties the document to the CFR and alerts the reader to the subject(s) covered. See figure C–1 for placement and content.

b. Preamble.

(1) If the adopted rule was published in the FEDERAL REGISTER as a proposed rule, the preamble of the adopted rule must specifically reference the proposed version citing the FEDERAL REGISTER publication date and page number.

(2) A preamble describes the contents of the document in layman's language. It should provide a concise general statement of the basis and purpose of the rule.

(3) It explains the relationship of the adopted rule to the proposed rule, including the nature and effect of any relevant public comments.

(4) Effective date.

c. Words of issuance. (Effective date may appear here.)

d. Body of text.

(1) Table of contents (table of sections) if required.

(2) Authority citation.

(3) Effective date (may appear here if required in body text).

(4) Amendatory language.

(5) Text.

e. Signature.

f. Printed name and title of signer.

g. Date signed, optional. See figures C–1 and C–2 for examples.

(Locate figs. C–1 and C–2, fold-in pages, at the end of the regular size pages.)

C–2. Words of issuance. The term "words of issuance" refers to the language in the document by which a codified document is legally prescribed and tied to the CFR. The words of issuance are always in the present tense, since the document itself is the act of promulgation. Eight of the most common terms used as words of issuance are defined and illustrated below. They usually precede the text but may also appear in the amendatory language preceding individual amendments.

a. Amended — "Amended" means that a CFR unit — title, subtitle, chapter, part, subpart, section, or paragraph — is partially changed. For example:

> 1. 44 CFR Chapter II is amended by adding a new Part 215, reading as follows:
>
> 2. 44 CFR Part 200 is amended by revising §§ 200.4 and 200.6 to read as follows:
>
> Example 2 shows that Part 200 is partially changed by completely rewriting sections 200.4 and 200.6.

b. Revised — "Revised" means that a CFR unit is completely rewritten and is being presented in full text, as shown below:

> 1. The regulations on voluntary inspection, 44 CFR Part 105, are revised to read as follows:
>
> 2. In 44 CFR 15.4 paragraph (b) is revised to read as follows:

c. Revoked — "Revoked" means that a CFR unit or provision is being removed from the CFR. For example:

> 1. 44 CFR Part 303 is hereby revoked.
>
> 2. In 44 CFR 940.15 the last sentence reading, "This restriction shall apply until June 30, 1979," is revoked.

d. Deleted — "Deleted" means that a CFR unit or provision is being removed from the CFR, but not necessarily because it has been legally terminated. See example below:

> 1. The authority for issuance of 44 CFR Part 410 (96 Stat. 333) has expired. Therefore, 44 CFR Part 410 is deleted from the Code of Federal Regulations.
>
> 2. In 44 CFR 410.10 the third sentence reading, "A fee of 50 cents shall accompany each application filed prior to June 30, 1965." is deleted.

e. Recodified — "Recodified" means major portions of regulations are being reorganized without substantive change. Recodification is used to untangle editorial confusion caused by many amendments, or make room for future changes. Any major recodification should be discussed in advance with the FEDERAL REGISTER staff. Contact the Federal Register Liaison Officer (AUTOVON 223-0631/0973 or commercial 202-693-0631/0973). Examples:

1. 44 CFR Chapter III is recodified to reflect a rearrangement of the subchapters and a renumbering of the parts without substantive change. As recodified, 44 CFR Chapter III reads as follows:

---

2. Because of the number and complexity of published amendments to 44 CFR Part 10 the part is recodified and republished. This recodification contains some editorial corrections but no substantive changes.

---

3. Part 501 of 44 CFR Chapter V is transferred to 44 CFR Chapter III and designated as Part 301. 44 CFR Chapter V is vacated and reserved.

f. Suspended. "Suspended" means that the effectiveness of a provision has been stayed temporarily or indefinitely. See examples:

1. 44 CFR 1036.42 (b)(1) and (b)(2) are suspended for the months of July through December 1979.
2. The provisions of 44 CFR 1036.42 (b)(1) are suspended indefinitely pending the outcome of a hearing.

g. Corrected. "Corrected" means the correction of a clerical or typographical error in a recently published document. Such a document should be treated as a change in the prior document. Identify the prior document clearly as to headings, date of publication, and FEDERAL REGISTER page. See examples:

1. The document revising 44 CFR Part 39 published in the FEDERAL REGISTER on August 18, 1975 as 40 FR 11781, is corrected by changing the reference in §40.4 from "§40.10 to §40.20."
2. FR Doc 77-3456, published at page 3257 in the issue of Tuesday, February 29, 1977, is corrected by changing "Director" to read "Acting Director" in the first paragraph.

h. Redesignated. "Redesignated" means a CFR unit is being transferred to another position and renumbered. Redesignation should not be used merely to fill gaps created by revocations or deletions or to make room for simple additions. For designating additions between existing units, see paragraph C-4.

In 44 CFR Chapter II, Part 20 is redesignated as Part 30.

C-3 "Short-form adoption" technique. *a.* Many proposals become adopted rules with few or no changes.

In these cases the proponent that published a proposed rule in full text should use the short-form adoption technique. This method ensures accuracy, saves retyping, and saves GPO the cost of resetting.

b. The following steps should be followed:

(1) Prepare a suitable signed preamble citing the publication date and page of the FEDERAL REGISTER where the proposal appeared. If there were changes made to the text of the proposal these should be mentioned and the reasons explained.

(2) Cut out and paste a copy of the FEDERAL REGISTER page(s) containing the text of the proposal, preferably one column to a sheet of paper. This will leave ample room to mark changes, within the margins in ink or typewritten. The pasted copy should be inserted after the signature of the issuing official and referenced in the preamble: "The amendments are adopted with changes as set forth below," or "The amendments are adopted without change, as set forth below." The paste-up, or a copy of it, should accompany each copy of the document. (See fig. C-3.)

(Locate fig. C-3, a fold-in page, at the end of the regular size pages.)

C-4. Organization. *a. Overall organization of text.* Material in documents must be drafted exactly as it is to appear in the CFR. The structure of the CFR is covered in appendix A. The substantive text follows the table of sections. Rules should be organized in a logical and orderly arrangement that will promote reader understanding and facilitate reference. While there is no blueprint for all rules, many can be arranged in some variation of the following:

(1) Statement of applicability, policy, or purpose, if necessary.

(2) Definitions.

(3) Important general rules—positive requirements sequenced in order of time or other logical arrangement.

(4) Exceptions, exemptions, and subordinate provisions, or negative provisions, important

enough to be stated as separate sections.

(5) Results of compliance or noncompliance.

An example of logical arrangement follows:

Arrangement		*Section Numbers*
1&2 Introductory Material	1.1	Nature Purpose
	1.2	Scope Applicability
	1.3	Definitions
3 Primary Substance	1.11	Positive requirements in order of time or other logical sequence
	1.12	
	1.13	
4 Other Provisions	1.21	Exceptions
	1.22	Exemptions
	1.23	Prohibitions
5 Benefits or Sanctions	1.31	The direct results of compliance or noncompliance
	1.32	
	1.33	

Allow space for future growth between groupings whether for parts, sections, etc. When a provision is removed and the space is to be maintained, the word "reserved" may be used with the part, section, or paragraph designation. For further discussion on reserving space see paragraph C-4d.

b. Table of sections. The table of sections is a list of the section numbers and headings contained in a part in numerical order. This table enables the reader to quickly grasp the scope of a particular part. The table of sections should precede the citation of authority (para C-8) and is single spaced. Material within a document must be preceded by a table of sections whenever—

(1) More than one section is added;

(2) More than one section is completely revised; or

(3) Two or more sections set forth as a subpart or otherwise separately grouped under a centerhead title are added or revised. For example:

Subpart H—Historic Preservation

GENERAL

650.181 Purpose.
650.182 Goal and objectives.
650.183 References.
650.184 Policy.
650.185 Definitions.
650.186 Responsibilities.

STANDARDS AND PROCEDURES

650.187 Standards.
650.188 Procedures for preparing nominations to the National Register (RCS DOI-1005).
650.189 Funding of historic preservation activities.
650.190 Utilization of Historic Properties.
650.191 Compliance procedures.
650.192 Archeological sites.
650.193 National historic landmarks.

Table of sections changes need not be shown when single or miscellaneous sections are being added or amended. This will be done automatically when the change is incorporated in the CFR. Example of a table of sections follows:

Part 9—Public Records

Sec.
9.1 Scope.
9.2 Definition.
9.3 Statement of organization, functions, procedure, and substantive rules.
9.4 Availability of Records.

c. Section and paragraph headings.

(1) Give each section a short, descriptive heading and place the section number and the heading on a separate line above the beginning of the text. Headings are used to make it easier for the reader to find a particular provision. Together with center headings, they are carried in the table of contents to give the reader an overview of the rules.

(2) Headings are also used for paragraphs when they serve to promote understanding of the text. If one paragraph in a section is assigned a heading, all paragraphs in that section should have headings.

d. Numbering. Do not renumber CFR units to make room for additions, or to close gaps after a provision is removed.

(1) In the initial assignment of numbers, room should be left if additions are anticipated. If it is necessary to add material that was not anticipated, designate it as follows:

New Material	Existing Provisions
	Part 30
Part 30a →	Part 30a
	§31.15
§31.15a →	§31.15a
	§31.16
	Paragraph (a)
Paragraph (a-1) →	Paragraph (a-1)
	Paragraph (b)

(2) To remove a typographical unit from within a rule or from within a series of rules, label the removed unit "[Reserved]." This serves to maintain the integrity of a rule and to avoid subsequent confusion. Renumber or reletter only when removals and other changes are so complex that a complete

revision is necessary. See examples for use of "[Reserved]."

> 44 CFR Part 1915 is amended by revising Subparts A and C, and revoking and reserving Subpart B, as follows:
>
> Subpart A — General Provisions
>
> 1915.1 Purpose, scope and responsibility.
> 1915.2 Definitions.
> 1915.3-4 [Reserved]
> 1915.5 Reference specifications, standards, and codes.
> 1915.6 [Reserved]
> 1915.7 Amendment of the regulations of this part.
>
> Subpart B [Reserved]
>
> Subpart C — Surface Preparation and Preservation

> Section 1916.2 is amended as follows:
> Paragraph (a) is revised, paragraph (b) is revoked and reserved, and the last sentence of paragraph (c) is removed.
>
> §1916.2 Definitions.
> (a) The term "shall" indicates provisions which are mandatory.
> (b) [Reserved]
> (c) The term "employer" means an employer any of whose employees are * * *

C-5. Asterisks. *a.* Asterisks in a rule or proposal document represent presently codified material that will not be altered and help the reader judge the extent of an amendment.

b. Five asterisks in a row show that one or more paragraphs or a typographical unit are not being changed. Three asterisks in a row show that text within a paragraph is not being changed. The net effect of the asterisks is to create a CFR format in which the changed text alone is set forth. Examples:

> 1. In §52.2270, paragraph (c)(2) is revised to read as follows:
>
> §52.2270 Identification of Plan.
> * * * * *
> (c)* * *
> (2) July 31 and November 10, 1972.
> * * * * *
>
> 2. In §1910.68 paragraphs (b)(4) and (c)(5)(iv)(c) are revised to read as follows:
>
> §1910.68 Manlifts.
> * * * * *
> (b)* * *
> (4) Reference to other codes and subparts. The following codes, and subparts of this part, are applicable to this section: Safety Code for Mechanical * * *

C-6. Simple narrative amendments. Amendments, such as the addition of deletion of a word or short phrase can be accomplished by stating the amendment in narrative style. For example:

> In §300.5 paragraph (a) is amended by inserting the word "or" between the words "property" and "services."
>
> or
>
> Section 300.13 is amended by deleting the words "and equivalents" in paragraphs (a) and (c) wherever they appear.

C-7. References. *a.* Make references clear when citing provisions of the Code of Federal Regulations. Write the specific titles, chapters, parts, sections, and paragraphs concerned. Do not make reference to "herein," "above," "below," etc.

b. References to material not published in the CFR or the FEDERAL REGISTER must give the full title of the material and a statement of its availability. See table C-1.

Table C–1. Examples of CFR References

References to a different CFR title

In:	In reference to:	Write:
Title 44	Title 1, Chapter I	1 CFR Chapter I.
Title 44	Title 1, Chapter I, Part 17	1 CFR Part 17.
Title 44	Title 40, Chapter I, Part 2, § 2.8	40 CFR 2.8.
Title 44	Title 44, Chapter I, Part 2, § 2.7, paragraph (a)(2)	44 CFR 2.7(a)(2).
Title 44	The familiar name of another regulation in a different title.	In the Civil Service rules (5 CFR Chapter I).

References within the same title

In:	In reference to:	Write:
Chapter I	Chapter II	Chapter II of this title.
Part 100 (Chapter I)	Part 300 (Chapter III)	Part 300 of this title.
§ 250.10 (Chapter II)	§ 300.19 (Chapter III)	§ 300.19 of this title.

References within the same chapter

In:	In reference to:	Write:
Part 20	Part 30	Part 30 of this chapter.
§ 20.10	§ 30.19	§ 30.19 of this chapter.

References within the same part

In:	In reference to:	Write:
§ 20.5	§ 20.15	§ 20.15.
§ 20.5	§ 20.25, paragraph (a)	§ 20.25(a).

References within the same section

In:	In reference to:	Write:
Paragraph (a)	Paragraph (b)	Paragraph (b) of this section.
Paragraph (a)	Paragraph (b)(1)	Paragraph (b)(1) of this section.

C–8. Citations of authority. *a. General.* Each codified document must be covered by a complete citation of the authority for its issuance, including any statutory general rulemaking authority. When appropriate, it must also include any specific rulemaking authority delegated by statute and any executive delegations which link the statutory authority to the Army. The rulemaking proponent is responsible for supplying accurate citations and for keeping them current. Changes to authority citations must be reflected by formal amendment in the same form as an amendment to regulatory text.

b. Form of citations. Authority citations should provide positive identification and ready reference in as few words as possible.

(1) *Statutory provisions.* These provisions should include:

(*a*) The section of the public law, and the public law number;

(*b*) The volume of the U.S. Statutes at Large and page where the section begins; and

(*c*) if available, the title and section of the United States Code. For example:

(Sec. 5, Pub. L. 89-670, 80 Stat. 935 (49 U.S.C. 1654))

1. If the authority is a citation to a title of the United States Code that has been enacted into positive law, the references to the public law and Statutes at Large are unnecessary and should be omitted. Cite the authority:

(10 U.S.C. 501)

2. When the citations include two or more references, separate the different references with a semicolon:

(Sec. 5, Pub. L. 89-670, 80 Stat. 935 (49 U.S.C. 1654); sec. 313, Pub. L. 85-726, 72 Stat. 752 (49 U.S.C. 1354); (10 U.S.C. 501); (5 U.S.C. 301))

(2) *Nonstatutory provisions.* These may be Presidential Executive orders, agency executive delegations, or other documents, which show authority to issue regulations. Citations of this type of authority should identify the class of documents, including the specific control number, and the FEDERAL REGISTER volume and page where the document was published. When possible, a parallel citation to the CFR should be included. For example:

(Special Civil Air Regulation SR-422A, 28 FR 6703, 14 CFR, Part 46, EO 11130, 28 FR 12789, 3 CFR 1959-63 Comp.)

(3) *Combined statutory and nonstatutory citations.* The statutory citations will precede nonstatutory material when both are cited.

(Sec. 5, Pub. L. 89-670, 80 Stat. 935 (49 U.S.C. 1654); sec. 313, Pub. L. 85-726, 72 Stat. 752 (49 U.S.C. 1354); EO 11130, 28 FR 12789, 3 CFR 1959-63 Comp.)

c. Placement of citations. The placement of an authority citation in a document varies with the nature of the document. The following examples show the different possibilities:

(1) *Single authority.* Where the document affects one or more CFR sections under the same authority, place the authority in parentheses following the last section, as shown:

Single section issued under one authority.

44 CFR Part 1 is amended by adding a new §1.10, as follows:

§1.10 Specimens for research purposes; permits.

The collection and handling of specimens for research purposes shall be under permit issued by the inspector in charge. Permits shall be issued for a period not longer than 1 year. The permit may be revoked by the inspector in charge if the specimens are not used as stated in the application. (Sec. 3, Pub. L. 98-321, 82 Stat. 368 (34 U.S.C. 5))

Several amendments issued under the same authority.

§3.41 Filing of documents.

Documents filed with the Board should be filed with the Office of Administration, Washington, D.C. 00000, by personal delivery or by mail and shall be deemed to be filed on the date of actual personal delivery or on the date as shown on the postmark.

§3.67 Issue of documents.

The Board will issue orders, initial decisions, motions and similar documents to all parties by registered or certified mail.

* * * * *

(Secs. 3, 5, Pub. L. 98-322, 82 Stat. 368, 370 (34 U.S.C. 5, 7))

(2) *Various authorities.* Where the document affects two or more sections with varying authority citations place the appropriate citation following affected section or sections.

Several amendments issued under varying authorities.

1. In §16.7 paragraph (a) is revised to read as follows:

§16.7 Departure procedure.

(a) Before a vessel leaves its position, the captain shall file form 262A with the control officer in charge.

* * * * *

(Sec. 2, Pub. L. 98-321, 82 Stat. 367 (34 U.S.C. 4))

2. In §18.99 paragraph (c) is revised to read as follows:

§18.99 Flight plan.

* * * * *

(c) If an aircraft cannot comply with its flight plan, the captain shall transmit a complete statement of the circumstances requiring alteration of the plan.

(Sec. 11, Pub. L. 98-322, 82 Stat. 375 (34 U.S.C. 9))

(3) *Blanket authority citations.* Blanket citations are used in Table of Sections when the document includes a group of conservative sections. There are various types of blanket citations:

(*a*) Regular blanket coverage where all consecutive sections are issued under the same authority (see example).

Regular blanket authority

Sec.
7.1 Purpose.
7.2 Definitions.
7.3 Chairman.
7.4 Membership.
7.5 Meetings.

Authority: Sec. 5, Pub. L. 98-321, 82 Stat. 370 (34 U.S.C. 7).

(*b*) Combined blanket coverage where all sections in the group are issued under the same authority, and two or more consecutive sections within the group are under the same additional authority (see example).

Combined blanket authority.

Sec.
47.1 Policy.
47.2 Purpose.
47.3 Responsibility.
47.10 Provision of bail in criminal cases.
47.11 Reimbursement.

Authority: Sec. 8, Pub. L. 98-328, 82 Stat. 470 (34 U.S.C. 21). Secs. 47.10 and 47.11 also issued under sec. 11, Pub. L. 98-329, 82 Stat. 503 (34 U.S.C. 311).

(c) Combined blanket and separate coverage where all sections in the group are issued under a common authority and one or more nonconsecutive sections are issued under a different authority (see example).

Combined blanket and separate authorities.

Sec.
8.1 Designation of arbitrator.
8.2 Investigation and disposition of alleged violations.
8.3 Disclosures of information.
8.4 Penalties.

Authority: Sec. 6, Pub. L. 98-321, 82 Stat. 501 (34 U.S.C. 306), unless otherwise noted.

§8.1 Designation of arbitrator.

The Deputy Administrator, after receiving application for arbitration, will designate one or more persons to act as arbitrator.

(Sec. 201, Pub. L. 98-359, 83 Stat. 94 (34 U.S.C. 26))

C–9. Effective Date Statements. *a. General.* A clear statement of each document's effective date(s) is essential for understanding and compliance. Be sure the effective date is legally permissible. For example, section 553(d) of title 5, United States Code, provides that the "required publication • • • of a substantive rule shall be made not less than 30 days before its effective date, except—

"(1) A substantive rule which grants or recognizes an exemption or relieves a restriction;

"(2) Interpretive rules and statements of policy; or

"(3) As otherwise provided by the agency for good cause found and published with the rule."

b. Form and placement. The appropriate place for the effective date statement is in the date block of the preamble as shown in paragraph A-9*b*. However, it is sometimes necessary to give a section number to the effective date provision in a codified document. Do this only when the provision belongs in the CFR with other provisions of the part because it sets forth contingencies, distinctions, or other conditions under which effectiveness is determined. The following example clearly belongs in the CFR:

§1.25 *Effective date.*

This part becomes effective on July 1, 1979, as to all authorizations that are in effect on that date. Each authorization issued on or after July 1, 1979, is subject to part 75 of this chapter.

c. Determining effective date. Proponents of Army regulations must comply with paragraph 3-13, AR 310-3 in determining the effective date of a publication.

(1) If possible, do not tie effectiveness to publication in the FEDERAL REGISTER by making it effective on the "publication date" or " . . . . . days after publication in the FEDERAL REGISTER." Publication dates for the FEDERAL REGISTER can be computed by using the following regular schedule:

Received in OFR	*Filed for Public Inspection*	*Published in FR*
Monday	Wednesday	Thursday
Tuesday	Thursday	Friday
Wednesday	Friday	Monday
Thursday	Monday	Tuesday
Friday	Tuesday	Wednesday

Add 2 days for processing by TAGCEN. In addition, when a legal holiday intervenes, 1 additional workday is added.

(2) Dates will be computed by counting the day after the publication day as one, and by counting each succeeding day, including Saturdays, Sundays, and holidays. However, where the final count would fall on a Saturday, Sunday, or holiday, the date will be the next succeeding business day.

(3) After consideration of the above, if the proponent wishes to tie effectiveness to publication date and is not sure of that date, the OFR will supply the actual date in the published document. In such cases the effective date should be stated as follows:

The amendment takes effect on . . . (. . . days after publication in the FEDERAL REGISTER).

C–10. Preferred expressions. Unless there are special reasons to the contrary, use the expressions in the "say" column.

	DON'T SAY	SAY
(1)	"* * * is directed" "it's the duty of * * * to"	"shall"
(2)	"is authorized and directed"	"shall"
(3)	"is authorized to" "is entitled to" "it shall be lawful to"	"may"
(4)	"in case" "in the event that"	"if"
(5)	"in a case in which" "in the case of"	"when," "where" (say "whenever" or "wherever" only when emphasizing the exhausting or recurring applicability to the proposition)
(6)	"for the reason that"	"because"
(7)	"pursuant to"	"under"
(8)	"the provisions of section . . . . . "	"section . . . . . "
(9)	"in order to"	"to"
(10)	"accorded"	"given"
(11)	"deem"	"consider"
(12)	"specified" (in the sense of "mentioned or "listed")	"named"
(13)	"commence," "institute"	"start" "begin"
(14)	"prior to"	"before"
(15)	"subsequent"	"later"
(16)	"subsequent to"	"after"
(17)	"at the same"	"when"
(18)	"per annum"	"a year"
(19)	"percentum"	"percent"
(20)	"under the provisions of"	"under"
(21)	"provisions of law"	"law"
(22)	"attains the age of . . . . . "	"becomes . . . . . years of age"
(23)	"on his own application"	"at his request"
(24)	"calculate"	"compute"
(25)	"render"	"make"
(26)	"is (shall be) applicable"	"applies"
(27)	"on and after July 1, 1971"	"after June 30, 1971"
(28)	"from July 1, 1971"	"after June 30, 1971"
(29)	"purchase"	"buy"
(30)	"full and adequate"	"full"
(31)	"successfully completes" or "passes"	"completes" or "passes"

C–11. Preferred word usage. *a.* "Shall" and "may": If a discretionary right, privilege, or power is conferred, use "may." If a right, privilege, or power is abridged, use "may not." If an obligation to act is imposed, use "shall." Avoid the common practice of using a negative subject with an affirmative "shall." Don't say "A person shall not . . .," say "A person may not . . ."

b. "Any," "each," "every," etc. (technically known as "pronominal indefinite adjectives") should be used only where necessary. When their use is necessary, follow these conventions:

(1) If a right, privilege, or power is conferred use "a" or "any" (e.g., "any person may * * *").

(2) If an obligation to act is imposed, use "each" (e.g., "each applicant shall * * *").

(3) If a right, privilege, or power is abridged, or an obligation to abstain from acting is imposed, use "No * * * may" (e.g., "No operator may * * *") or "A * * * may not."

c. "Such": Although the word "such" is commonly used in legal writing as a "demonstrative" (a word pointing at something already referred to), this use is not considered to be the best practice, because it is a stilted "legalistic" way of saying something better expressed by "the," "that," "these," "it," "them," etc., and it is easily confused with the more appropriate uses of the word as a synonym, when followed by "a" or "as" for "that kind of."

APPENDIX D
PREPARATION OF GENERAL NOTICE DOCUMENTS

D–1. General information. *a.* General notices are documents containing information applicable to the general public that are not codified in the Code of Federal Regulations. Some notices are required by law to be published in the FEDERAL REGISTER. Others are published to provide information to the public.

b. Due to the wide variety of notice documents definitive drafting guidance is not available. However, notice documents have similar elements to rulemaking documents and the information in appendix A and C will be helpful in drafting notices.

D–2. Drafting general notices. All general notice documents include the following:

a. Appropriate headings.

b. Body text.

c. Signature.

d. Printed name and title of signer.

e. Date signed, optional. See figures D–1 and D–2 for examples of notice documents.

(Locate figs. D–1 and D–2, fold-in pages, at the end of the regular size pages.)

D–3. Effective date statements. Many notice documents do not involve a specific time of effectiveness. When they are necessary write them as follows:

Effective date. This delegation of authority shall be effective as of June 30, 1977.

or

Effective date. This order shall become effective on April 27, 1978.

The proponent agency of this regulation is The Adjutant General Center. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) direct to HQDA (DAAG-AMR-R) WASH DC 20314

By Order of the Secretary of the Army:

BERNARD W. ROGERS
General, United States Army
Chief of Staff

Offical:

PAUL T. SMITH
Major General, United States Army
The Adjutant General

DISTRIBUTION:
Active Army, ARNG, USAR: To be distributed in accordance with DA Form 12-9A requirements for AR, Military Publications - C.

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OFFICE OF THE FEDERAL REGISTER

INCORPORATION BY REFERENCE OF THE

ARMED SERVICES PROCUREMENT REGULATION (ASPR)

Request for Comments

The Director of the Federal Register is considering approving the incorporation by reference into the FEDERAL REGISTER and Code of Federal Regulations system of the 1975 edition of the Armed Services Procurement Regulation (ASPR). The purpose of this document is to seek public guidance before a final decision is made.

Presently, the ASPR is published annually in two volumes at Title 32 of the Code of Federal Regulations. Because these regulations are voluminous and subject to frequent changes, it has been a problem keeping these Code of Federal Regulations volumes current. The ASPR is also available to all interested persons in a looseleaf publication which is available by subscription through the Superintendent of Documents, Government Printing Office, Washington, D. C. 20402.

Before the ASPR will be approved for incorporation by reference, the Office of the Federal Register must be satisfied that both the spirit and intent of the requirements of section 552(a) of Title 5, United States Code, are met.

Interested persons may submit written data, views and arguments to the Director of the Federal Register, NARS, General Services Administration, Washington, D. C. 20408, on or before July 17, 1975. All comments submitted will be available for examination by interested persons at 1100 L Street N. W., Room 8401, Washington, D. C.

Dated: June 11, 1975

Official's Signature Block

1. Headings.
   a. Agency.
   b. Subject.
   c. Action.
2. Body of notice.
   a. Identification and description of material to be incorporated.
   b. Titles, dates, editions, if required.
   c. A brief description shall be included to inform user of his need to obtain material.
   d. Statement of availability.
   e. Public participation (if desired).
3. Date of issuance.

EXAMPLE OF INCORPORATION BY REFERENCE

Figure 1-1

- Bond paper or legible photocopy.
- 8 X 10½".
- Margins as shown.
- Double space.
- Typed name and title.
- Three copies, legible or duplicate originals or ink signature each copy.

1"

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 650

[AR 210-9]

ENVIRONMENT QUALITY

INSTALLATIONS, USE OF OFF-ROAD VEHICLES ON ARMY LAND

AGENCY: Corps of Engineers, DOD.

ACTION: Proposed Rule.

SUMMARY: These proposed regulations establish policies and procedures for the use of official vehicles on Army installations. The regulations implement a Department of Defense directive to the use of official vehicles and are designed to promote the environment in these installations.

DATES: Comments must be received on or before [ ].

ADDRESSES: Comments to: [DAEN-CWO-N], Washington, D. C. [ ].

FOR FURTHER INFORMATION CONTACT:

Robert T. Mitchell, Chief, Facilities and Housing Division, Facilities Engineering Directorate, Office, Chief of Engineers, Washington, D. C. [ ], [ ].

SUPPLEMENTARY INFORMATION:

The Secretary of the Army, acting through the Chief of Engineers, is proposing a regulation to prescribe the policies, responsibilities, and procedures for the use of off-road vehicles on all Army installations. The regulation implements Department of Defense Directive 4000. [ ] on the policies and procedures of 32 CFR 650, "Environmental Protection" [ ] Environment."

1"

EXAMPLE OF PROPOSED RULEMAKING DOCUMENT

Headings.
- Issuing Department.
- Name of Agency.
- CFR Designation.
- Document Designation.
- Subject Heading.
- Action Heading.

Preamble (See Para A-9).

Agency: Dept of the Army, DoD (except Corps of Engineers)

Action: What?

Summary: Brief Statement.
a. Action being taken.
b. Circumstances that created need for action.
c. Intended effect of action.

Dates: Comments, etc.

Addresses: Any relevant addresses.

Contact: Individual to contact.

Supplementary Information: As required.

Figure B-1

This proposed regulation is being published pursuant to

It is proposed to add a new Part 636 as set forth below:

Dated: July 15, 1977

Official's Signature Block

32 CFR is amended by adding a new Part 636 as follows:

Part 636- INSTALLATION, USE OF OFF-ROAD VEHICLES ON ARMY LAND

Sec.

636.1 Purpose.
636.2 Applicability.
636.3 Definitions.
636.4 Objectives.
636.5 Policies.
636.6 Responsibilities.
636.7 Environmental Considerations.
636.8 Guidelines and Criteria for Evaluation of Army Lands for Off-Road Vehicle Use.

Authority: [U.S.C. 301]

§ 636.1 Purpose.

The purpose of this regulation is to establish uniform policies, procedures and criteria for controlling off-road travel by off-road vehicles, and to prescribe appropriate operating conditions for use of such vehicles. This regulation implements DoD Directive 6050.7, 31 August 1974.

§636.2 Applicability.

(a) This regulation applies to all installations and activities in the United States under control of the Department of the Army by ownership, lease, or similar instrument, under the following conditions of use:

2

— Words of issuance.
— Date of issuance.
— Signature.
Text of proposed rule.
— a. Amendatory language.
— b. Table of contents, if required.
— c. Authority citation.
— d. Text of proposal.

Figure B-1—Continued

Title 33--Navigation and Navigable Waters

CHAPTER II--CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

ER 1165-2-14

PART 204--ADMINISTRATIVE PROCEDURES

REIMBURSEMENT FOR ADVANCE NON-FEDERAL PARTICIPATION IN CIVIL WORKS PROJECTS

AGENCY: U.S. Army Corps of Engineers, DOD

ACTION: Final Rule.

SUMMARY: This regulation establishes general policies, outlines procedures to be followed in requiring an agreement with an eligible non-Federal entity, and provides guidance on the provisions of such an agreement for reimbursement of advance non-Federal participation in Civil Works projects. These instructions will implement the provisions of Section 215 of the Flood Control Act of 1968. These requirements are intended to improve and expedite action resulting from non-Federal requests.

EFFECTIVE DATE: May 16, 1977

FOR FURTHER INFORMATION CONTACT: Mr. Richard J. Jones, Construction Operations Division, Civil Works Directorate, Office of the Chief of Engineers, Washington, DC 20314, (202) 693-00741.

SUPPLEMENTARY INFORMATION: Since this regulation only provides procedural guidance to Corps of Engineers field personnel on the implementation of Public Law 90-483, notice of proposed rulemaking and the procedures thereto are considered unnecessary.

EXAMPLE OF ADOPTED RULEMAKING DOCUMENT

Headings.

a. CFR number and title.

b. Chapter.

c. Agency designation.

d. Part number.

e. Additional heading.

Preamble (See Para A-9).

a. Agency.

b. Action.

c. Summary: Brief Statement.

(1) Action being taken.

(2) Circumstances that created need for action.

(3) Intended effect of action.

d. Dates:

Type effective date as the item heading for final rule documents.

e. Contact:

f. Supplementary Information: as required.

Figure C-1

The Chief of Engineers has determined that this rule does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107 (Statutory Authority P. L. 90-483).

Dated: April 29, 1978

Signature.
RUSSELL J. LAMP
Colonel, Corps of Engineers
Executive

Date of Issuance.

Signature.
Official Signature Block

In consideration of the above Part 209 is amended by adding § 209.145 as follows:

Amendatory language.

§ 209.145 Reimbursement for Advance Non-Federal Participation in Civil Works Projects.

Text of adopted rule.

(a) Purpose. This regulation gives general instructions on use of Section 215 of the Flood Control Act of 1968 (Public Law 90-483) to reimburse a non-federal public body for construction of part of an authorized federal project. It establishes general policies, outlines procedures to be followed in reaching an agreement with an eligible non-federal entity, and provides guidance on the provisions of such an agreement. All authorized projects are subject to this Act and Regulation.

(b) Applicability. This regulation applies to all field operating agencies having Civil Works responsibilities.

(c) References.

Figure C-1—Continued.

(d) General Policy.

(1) The specific limitations put upon the allotment of funds authorized by Section 215 indicates that only limited use should be made of the authority. It will, therefore, be Corps of Engineers policy to restrict the use of this authority to cases that meet all of the following conditions: (1) the work, even if the Federal Government does not complete the authorized project, will be separately useful or will be an integral part of a larger non-Federal undertaking that is separately useful; (2) the work done by the non-Federal entity will not create a potential hazard; (3) approval of the proposal will be in the general public interest; (4) only work commenced after project authorization and execution of an agreement pursuant to this Regulation will be eligible for reimbursement or credit; (5) proposed reimbursement will not exceed the amount that the District Engineer considers a reasonable estimate of the reduction in Federal expenditures resulting from construction of the project component by the non-Federal entity.

(2) Before finally approving any agreement under Section 215, the Chief of Engineers will inform the Secretary of the Army and the Chairman (Senate and House), Subcommittee on Public Works, Committee on Appropriations of the proposed arrangements. Chief of Engineers will not sign an agreement until Secretarial and Committee concurrences are obtained.

Figure C-1—Continued

Title 32 - National Defense

CHAPTER V - DEPARTMENT OF THE ARMY

[AR 15-185]

PART 581 - PERSONNEL REVIEW BOARDS

ARMY BOARD FOR CORRECTION OF

MILITARY RECORDS

AGENCY: Department of the Army, Board for Correction of Military Records

ACTION: Final Rule

SUMMARY: The rules of procedure governing the Army Board for Correction of Military Records have been amended. These changes are made in compliance with the Stipulation of Dismissal in the case of Urban Law Institute, et al v. Secretary of Defense, et al, U.S.D.C., D.C. Civil Action No. 76-0530, dated 31 January 1977. These changes require the Correction Board to prepare a statement of grounds for denial in every case in which the complete relief requested is denied; to furnish such statement to applicant and counsel together with any staff advisory opinions considered by the Board, along with any dissenting opinions; the votes of Board Members to be furnished or made available upon request; all decisions of the Board and/or Secretary will be indexed; the indexed decisions of the Board, after deletion of identifying details of the applicant and other individuals, will be made available at a public reading room on the concourse of the Pentagon Building. Accordingly, notice of proposed rulemaking and the procedures applicable thereto are considered unnecessary.

EFFECTIVE DATE: The amended Rules are effective 1 April 1977 and will apply to all applications pending before the ABCMR on such date as well as to new appeals.

ADOPTION OF RULES NOT PRECEDED BY PROPOSAL

Figure C-2

ADDRESS: Army Board for Correction of Military Records
Room 1E-517, The Pentagon
Washington, D. C. 20310

FOR FURTHER INFORMATION CONTACT: Raymond J. Williams
Executive Secretary
697-4254

Dated: March 28, 1977

Signature
Raymond J. Williams
Executive Secretary
Board for Correction
of Military Records

In consideration of the foregoing and for reasons given by authority of 10 U.S.C. 1552, the rules of procedures of the Army Board for Correction of Military Records, 32 CFR Part 581 is amended by

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8581.3 Army board for Correction of Military Records

(c)

(5)

(iii) All requests for further consideration may be initially screened by the staff of the Board to determine whether any evidence or other matter (including but not limited to, any factual allegations or any arguments why the relief should be granted) has been submitted by the applicant that was not in the record at the time of any prior

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Figure C–2—Continued.
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Title 33 - Navigation and Navigable Waters

CHAPTER II - CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 207 - NAVIGATION REGULATION CAPE FEAR RIVER, NORTH CAROLINA

AGENCY: U. S. Army Corps of Engineers, DoD

ACTION: Final Rule.

SUMMARY: This rule establishes a schedule of operation for the three locks and dams on the Cape Fear River in North Carolina

EFFECTIVE DATE: April 1, 1977

ADDRESSES:

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: On January 26, 1977 there was published in the FEDERAL REGISTER (42 FR 4861) a Notice of Proposed Rulemaking concerning the establishment of 33 CFR 207.161 to govern the use, administration and navigation of the three locks on the Cape Fear River in North Carolina. Interested parties were given the opportunity to comment. No comments have been received. However, an omission was inadvertently made in the schedule of operations. For the period of April 1 through October 31, Monday through Friday, the locks will be available for passage of vessels from 7 A.M. to 11 A.M., 12 noon to 4 P.M. and 7 P.M. to 8 P.M. Accordingly, 33 CFR 207.161 is established as set forth below.

NOTE. The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(40 Stat. 266; 33 U.S.C. 1)

Dated: March 14, 1977

Official's Signature Block

EXAMPLE OF SHORT-FORM ADOPTION TECHNIQUES

Figure C-3

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

[33 CFR Part 207]

CAPE FEAR RIVER, NORTH CAROLINA

Proposed Navigation Regulations

Notice is hereby given that pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) the regulations set forth below in tentative form are proposed by the Secretary of the Army (acting through the Chief of Engineers) to govern the use, administration and navigation of the three locks on the Cape Fear River, North Carolina. This proposal would establish a schedule of operation for the three locks and dams operated by the Corps of Engineers for navigational purposes.

The locks are currently available for navigation 24 hours a day, every day of the year. In view of declining use of the river for navigation and the small number of vessel lockages, combined with the increasing cost of operation and maintenance, continuous operation is uneconomical. It is apparent that the cost of making the locks available on a continuous basis far outweighs the benefits of accommodating the very few vessels currently using the locks. The proposed schedules would reduce the cost of operation by about 50 percent.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions or objections thereto which are submitted in writing to the Office of the Chief of Engineers, Forrestal Building, Washington, DC 20314. Attention: DAEN-CWO-[illegible]. [illegible] February 28, 1977.

§ 207.161 Cape Fear River, Navigation Locks, Between 29 and 94 River Miles North of Wilmington, North Carolina; Use, Administration and Navigation.

(a) The owner of or agency controlling the locks shall be required to open the navigation locks upon demand for passage of vessels during the following hours and periods:

Lock and dam No. 1, Lock and dam No. 2, Lock and dam No. 3, Buster Jack and dam.

[illegible] Monday through [illegible] 5 p.m. to 8 p.m.

In addition, lockages will be provided during other hours if prior requests are made 48 hours in advance to the District Engineer, U.S. Army Engineer District, Wilmington, North Carolina.

(b) The owner of or agency controlling the locks shall place signs of such size and description as may be designated by the District Engineer, U.S. Army Engineer District, Wilmington, North Carolina, at the locks indicating the nature of the regulations of this section.

(40 Stat. 266; 33 U.S.C. 1)

[illegible] January 19, 1977

Marvin W. Ross

Colonel, Corps of Engineers

Acting Director of Civil Works

[illegible] 2480 Filed 1-25-77 8 [illegible]

Figure C–3—Continued

DEPARTMENT OF THE ARMY

COUNCIL ON ENVIRONMENTAL QUALITY

Final Environmental Impact Statement

Construction of Military Family Housing, Ft. Belvoir, VA.

In compliance with the National Environmental Policy Act of 1969, the Army is filing with the Council on Environmental Quality a Final Environmental Impact Statement concerning the construction of 1,440 military housing units at the Fort Belvoir, Virginia, Military Reservation.

Copies of the statement have been forwarded to concerned federal, State and local agencies. Interested individuals may obtain copies from the Office of the US Army Engineer District, Norfolk, ATTN: NAOEN-D, 803 Front Street, Norfolk, Virginia 23510. In the Washington area, inspection copies can be seen in the Environmental Office, Assistant Chief of Engineers, Room 1E676, Pentagon Building, Washington, D. C. 20310. (Telephone: (202) 694 1161).

Date: Oct 20, 1978

Signature

Printed Name of Signer
Deputy Assistant Secretary
of the Army, Civil Works

1. Headings.
   a. Agency
   b. Element
   c. Subject
   d. Action
2. Text.
3. Date.
4. Signature.
   Official's
   Signature
   Block

EXAMPLE OF NOTICE DOCUMENT

Figure D-1

DEPARTMENT OF THE ARMY

Army Financial Management Advisory Committee

NOTICE OF OPEN MEETING

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P. L. 92-463), announcement is made of the following Committee meeting:

NAME OF COMMITTEE: Army Financial Management Advisory Committee

DATE OF MEETING: 15-16 June 1978

PLACE: Room 3D 680, the Pentagon

TIME: 0800-1300 hours -- 15 June 1978; 0800-1300 hours -- 16 June 1978

PROPOSED AGENDA:

The first day's agenda consists of the Committee's discussion and markup on the detailed report chapters and the executive summary. The second day's agenda consists of the preparation and presentation of a status report to the Secretary of the Army and the development of final changes to the report.

This meeting is open to the public; however, space accommodations are limited. Persons wishing to attend, appear before, or file statements with the Committee at the time and in the manner permitted by the Committee should advise the Deputy Chairman of the Committee, in writing prior to the meeting at the following address: Office Assistant Secretary of the Army (Financial Management), Room 3D680, The Pentagon, Wash. D. C. 20310.

Date: May 18, 1978.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Signature

R. W. HAMPTON
Colonel, U. S. Army
Director, Administrative Management
TAGCEN

1. Headings.

   Indicate whether meeting is open, closed or partially closed to the public.

2. Text.

1. Date.

4. Signature and official's signature block.

EXAMPLE OF MEETING NOTICE

Figure D-2

PIN ; 032587-000